

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:) Case No. 15-41161-399
SAMUEL F. SORBELLO,) Judge Barry S. Schermer
Debtor.) Chapter 7
)) **MOTION TO COMPEL TURNOVER
 OF PROPERTY OF THE ESTATE**
)) **Hearing Date: November 4, 2015**
)) **Hearing Time: 2:00 p.m.**
))
)) Janice R. Valdez
)) EDMO #42154MO, MoBar #42154
)) Stone, Leyton & Gershman
)) A Professional Corporation
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Chapter 7 Trustee E. Rebecca Case, by and through her attorneys, pursuant to 11 U.S.C. §§ 521(a)(3) and (4) and 542(a) files her Motion to Compel Turnover of Property of the Estate (“Motion”) and in support thereof states as follows:

1. The Court has jurisdiction in regard to this matter pursuant to 28 U.S.C. §§151, 157, and 1334 and Local Rule 81-9.01(B) of the United States District Court for the Eastern District of Missouri.
2. On February 24, 2015, Debtor Samuel F. Sorbello (“Debtor”) filed a Voluntary Chapter 7 Petition for Relief in the United States Bankruptcy Court for the Eastern District of Missouri.
3. E. Rebecca Case was appointed as the Chapter 7 Trustee (“Trustee Case”).
4. On April 15, 2015, Debtor filed a Motion to Convert Case to Chapter 13 and on April 24, 2015, the Court entered its Order converting the Chapter 7 Case to Chapter 13.

5. On April 30, 2015, the Chapter 13 Trustee filed a Motion to Dismiss Case for Failure to Make Plan Payments and Trustee Case filed her response to the Motion to Dismiss Case requesting that the case be re-converted to Chapter 7.

6. On June 15, 2015, the Court entered its Order reconverting the case to Chapter 7 and reinstating Trustee Case as Chapter 7 Trustee.

7. On February 24, 2015, Debtor filed “Schedule A – Real Property” and listed his interest in real property located at 9742 Highway 21, Hillsboro, Missouri. A true and correct copy of Debtor’s Schedule A – Real Property is attached hereto and incorporated herein as **EXHIBIT “1”**.

8. However, at the initial Chapter 7 Meeting of Creditors held on March 20, 2015, Debtor testified that in addition to the real property located at 9742 Highway 21 Hillsboro, Missouri, he has an interest in two additional tracts of real property located in Jefferson County, Missouri (collectively the “Real Property”).

9. On or about June 29, 2015, Debtor filed an amended “Schedule A – Real Property” to disclose his interest in the Real Property:

<u>Description</u>	<u>Current Value</u>	<u>Amount of Secured Claim</u>
9742 Highway 21 Hillsboro, MO 63050	\$85,000.00	\$144,382.00
5102 Hillsboro Hematite Rd., De Soto, MO 63020	\$35,000.00	\$ 0.00
12977 Hencher Rd., Property is jointly owned with sister, Mary Talati	\$ 4,900.00	\$ 0.00

A true and correct copy of Debtor’s amended Schedule A – Real Property is attached hereto as **EXHIBIT “2”** and incorporated herein by this reference.

10. On February 24, 2015, Debtor filed “Schedule B – Personal Property” and listed his interest in one vehicle, a 1998 Nissan Frontier. A true and correct copy of Debtor’s Schedule B – Personal Property is attached hereto and incorporated herein as **EXHIBIT “3”**.

11. On or about June 29, 2015, Debtor filed an amended “Schedule B - Personal Property” and disclosed his interest in five vehicles (collectively the “Vehicles”):

<u>Description</u>	<u>Current Value</u>
1998 Nissan Frontier 4DR 200,000 miles	\$1,500.00
Equitable interest in a 1991 Nissan	\$ 100.00
1991 Toyota Truck, vehicle needs a motor	\$ 100.00
1989 Toyota Truck, vehicle needs a motor	\$ 100.00
1986 Flatbed Trailer	\$ 100.00

A true and correct copy of Debtor’s amended Schedule B - Personal Property is attached hereto as **EXHIBIT “4”** and incorporated herein by this reference.

12. At the Meeting of Creditors held on March 20, 2015, Debtor failed to provide Trustee Case with his 2014 Federal and State income tax returns.

13. Trustee Case has instructed Debtor to turn over the following:

- (a) documents regarding the Real Property including:
 - (i) Deeds;
 - (ii) Deeds of Trust;
 - (iii) Tax Assessments;
 - (iv) Appraisals;
 - (v) Payoff statements from mortgage companies, if any; and
 - (vi) Proof of Insurance(“Real Property Documents”);
- (b) Certificates of Title for the Vehicles (“Certificates of Title”); and
- (c) Debtor’s 2014 Federal and State income tax returns (“Tax Returns”).

14. The continued Meeting of Creditors in the Chapter 7 case is scheduled to be held on September 22, 2015.

15. As of this date, the Debtor has not turned over the information listed in Paragraph 10 above.

16. Pursuant to 11 U.S.C. § 521(a)(3), Debtor has a duty to cooperate with Trustee Case as necessary to enable Trustee Case to perform her duties.

17. Debtor's failure to turn over the documentation requested by Trustee Case prevents Trustee Case from recovering assets for the benefit of Debtor's creditors.

18. Trustee Case has incurred additional attorneys' fees and costs due to Debtor's failure to comply with Trustee Case's requests in this case.

WHEREFORE, Trustee Case respectfully requests that this Court enter an order approving Trustee's Motion to Compel Turnover of Property of the Estate and compelling Debtor Samuel F. Sorbello to immediately turn over the following to Trustee Case:

- (a) documents regarding the Debtor's Real Property including:
 - (i) Deeds;
 - (ii) Deeds of Trust;
 - (iii) Tax Assessments;
 - (iv) Appraisals;
 - (v) Payoff statements from mortgage companies, if any; and
 - (vi) Proof of Insurance
- (b) Certificates of Title for Debtor's Vehicles; and
- (c) Debtor's 2014 Federal and State income tax returns;

order Debtor to pay the Trustee's attorney's fees and costs in regard to Debtor's non-compliance, and for such other and further relief as the Court deems just and proper.

STONE, LEYTON & GERSHMAN
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via first class, United States mail, postage prepaid and/or electronic notice on September 23, 2015 to:

/s/ Janice R. Valdez
Janice R. Valdez